

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**GARY MACNEILAGE and
VALERIE MACNEILAGE,**

Plaintiffs,

**RISK MANAGEMENT DIVISION OF
THE STATE OF NEW MEXICO,**

Plaintiff in Intervention,

v.

No. CIV. 07-841 RHS/WDS

AVILL YOUNG, et al.,

Defendants.

ORDER DENYING PLAINTIFFS' MOTION FOR RECONSIDERATION


THIS MATTER comes before the Court on Plaintiffs' Motion for Reconsideration of Order Declining to Approve Settlement with a Minor ("Motion for Reconsideration"), filed June 3, 2009 [**Doc. No. 221**]. On May 19, 2009, the Court denied Plaintiffs' Motion to Approve Settlement of Minors' Claims, explaining that several "fundamental problems" existed regarding the proposed settlement. (Order Declining to Adopt Report and Recommendation and Denying Motion to Approve Settlement ("Order Denying Settlement") at 1 [**Doc. No. 217**]). The Court, having considered Plaintiffs' Motion for Reconsideration, Defendant Arzola's response [**Doc. No. 222**], and being otherwise advised in the premises, finds that the motion is not well-taken and will be denied.

In their Motion for Reconsideration, Plaintiffs address the Court's concern that no release was available to review, by attaching a copy of a proposed release to the motion. However, Plaintiffs fail to address or dispel the remaining concerns raised by the Court, including: (1) this

Court's apparent lack of jurisdiction over the homeowner policy insurer; (2) the Court's concern "that the parties are attempting to settle with a non-party" while still reserving all claims against Defendant Young; an apparent inconsistency "with the insurer's arguable obligation to obtain a dismissal of Defendant Young from the lawsuit in exchange for the proposed sums . . .", (Order Denying Settlement at 2 ¶2); and (3) the Court's inability to ascertain "what the children are giving up in exchange for the payment of money by the non-party[,]" (id. ¶3).

WHEREFORE,

IT IS ORDERED that Plaintiffs' Motion for Reconsideration of Order Declining to Approve Settlement with a Minor [**Doc. No. 221**] is **denied**.



ROBERT HAYES SCOTT
UNITED STATES MAGISTRATE JUDGE